

Message

Sent: 9/10/2019 8:37:40 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: FW: SAFE Preemption Waiver 8.30.2019 otaq edits
Attachments: SAFE Preemption Waiver 8.30.2019 ks edits.docx

Winnie

Can you call me or reply by email with how OGC has considered these comments on the waiver piece specifically? There were also perhaps some comments on the EOs at the end and on the waiver reconsideration authority.

David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, September 05, 2019 9:53 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Dickinson, David <Dickinson.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: SAFE Preemption Waiver 8.30.2019 otaq edits

OGC,

Attached are our edits to the combined epca/waiver document. Not that we are still doing some internal review so one or two may change a bit, but I think this is in pretty good shape for you all to review and consider. I also recognize that we are a version or two behind since folks in your shop keep putting out new drafts so these comments may or may not line up exactly with the current working version. Let David or I know if you have any questions. thanks

Message

From: Olechiw, Michael [olechiw.michael@epa.gov]
Sent: 9/3/2019 6:31:44 PM
To: Simon, Karl [Simon.Karl@epa.gov]; Charmley, William [charmley.william@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]
Subject: RE: Update of SAFE/CA Waiver

Karl et al,

Is there a call-in number?

Mike

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Tuesday, September 03, 2019 2:20 PM
To: Charmley, William <charmley.william@epa.gov>
Cc: Dickinson, David <Dickinson.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>
Subject: Re: Update of SAFE/CA Waiver

Thanks Bill. We understand the plan to be to include prong 3 discussions in the rule that goes out separately that will supposedly also include the standards. Appreciate the quick read

On Sep 3, 2019, at 2:03 PM, Charmley, William <charmley.william@epa.gov> wrote:

Dear Karl and David –

As a follow-up to the call on Friday, I did review this version of the draft waiver withdraw earlier today.

I am a little confused, because for some reason I thought there was going to be a discussion of the 3rd prong in the document, but there wasn't (which I am not complaining about).

There wasn't a lot in the way of technical assessments, technology costs, and technology lead-time for me to provide comment on. I did read most of it, though I skipped through a lot of the legal discussion of treatment on previous waivers. I do not have any comments on this draft.

If, as David's note indicates, there will be a discussion on the 3rd prong that is coming later, I will review that.

Thanks
Bill

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Friday, August 30, 2019 4:09 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Charmley, William

<charmley.william@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>

Subject: Update of SAFE/CA Waiver

All -

Ex. 5 Deliberative Process (DP)

And a good weekend to all,
David

Appointment

From: Hageman, Sharon E. EOP/OMB **Ex. 6 Personal Privacy (PP)**
Sent: 9/16/2019 2:56:05 AM
To: Hageman, Sharon E. EOP/OMB **Ex. 6 Personal Privacy (PP)** Dickinson, David [Dickinson.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]; Nickerson, William [Nickerson.William@epa.gov]; Miller, Wendy (ENRD) [Wendy.Miller@usdoj.gov]; justin.smith@usdoj.gov
CC: Harlow, David [harlow.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: SAFE - Holding Time for Discussion on Comments
Location: **Ex. 6 Personal Privacy (PP)**
Start: 9/17/2019 5:00:00 PM
End: 9/17/2019 6:00:00 PM
Show Time As: Busy

If you are interested and have time pls go ahead and join the discussion. Not sure I will be available so if get any documents let me know so I can get them into the docket. Thx

Begin forwarded message:

From: "Hageman, Sharon E. EOP/OMB" <**Ex. 6 Personal Privacy (PP)**>
To: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>, "Nickerson, William" <Nickerson.William@epa.gov>, "Miller, Wendy (ENRD)" <Wendy.Miller@usdoj.gov>, "justin.smith@usdoj.gov" <justin.smith@usdoj.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>, "Simon, Karl" <Simon.Karl@epa.gov>
Subject: SAFE - Holding Time for Discussion on Comments

Hello all,
 Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.
 Thanks,
 Sharon

Key Comments: State, Tribal, Local Governments

State of California AG, 25 states and cities (cover letter with detailed comments attachment)

Cover letter

- Rollback is **arbitrary and capricious** and unlawful in multiple respects
 - Contravenes mandates under the Clean Air Act and EPCA, respectively, to protect the public from air pollution and to conserve energy
 - Based on **assumptions and modeling that are wholly unsupported** and lead to illogical and unlikely, even impossible results
 - **Ignored solid and substantial evidence**, including evidence already in their possession or readily available to them, that runs counter to their rollback objective
 - Have **failed to provide the “good reasons” required for their numerous reversals** of positions on factual, technical, or legal issues.
- **Standards are working**, manufacturers are exceeding requirements while generating generous profits; spurring innovations
- Proposed actions are unlawful.
 - Administrative process for **MTE Final Determination was deeply flawed**; devoid of new data or analysis; abandons existing record
 - Comment period only 63 days despite many extension requests
 - EPA abdicates statutory responsibility despite immense record of climate science and consequences
 - Model is not peer reviewed, suffers from profound errors that render the conclusions arbitrary and capricious
- EPA’s proposal to revoke the Clean Air Act Section 209(b) **waiver** is also unlawful
 - Has no basis in the text, structure, or purpose of the Clean Air Act; is entirely unsupported by evidence
 - **Contravenes congressional intent and the cooperative federalism model** established by Congress
 - Would **interfere with California’s ability to protect its people** and its resources from the threat of climate change
 - Congress did not intend to subject California’s ability to regulate dangerous vehicle emissions to the changing priorities of federal administrations

Detailed comments (145 pages)

- States played a vital role in moving toward clean car standards
- The **existing standards were the result of an extraordinary consensus** among two federal agencies, the State of California, 13 automobile manufacturers
- Based on the Agencies’ analyses and findings in the TAR and some additional analyses in EPA’s November 2016 Proposed Determination, EPA issued its final determination in January 2017 (“2017 Final Determination”)
- EPA/NHTSA justify rolling back the standards on three fronts: societal costs, safety, and minimal harm to the climate. Each of these justifications is seriously flawed

Public Health, Welfare and the Environment

- Slamming the brakes on reductions in GHG emissions from United States light-duty vehicles for over half a decade **would deal a substantial blow in the fight against climate change**
- Resignation to a baseline scenario projecting very high global GHG emissions through 2100 and resulting catastrophic climate change constitutes **a wholesale abdication of its statutory obligations**
- Car standards would lag behind all but those of Brazil, Mexico, and Saudi Arabia, and our light-truck standards would lag behind those of all 35 other countries. In other words, a significant portion of the **world will be accomplishing what EPA and NHTSA deem out of reach**
- EPA's section of the rulemaking **contains no detailed discussion of the causes of climate change** or the link to vehicles' consumption of fossil fuels; indicative of EPA's disregard for its obligations under the Clean Air Act
- Provides details of several measurable impacts from GHG emissions to date and that can be expected in the future at a global, national, state, and local level
- Reducing vehicle emissions is a critical component of any effort to mitigate climate change
- Light-duty vehicle sector in the United States is among the largest, and most feasible to reduce, target for GHG emission reductions anywhere in the world
- Proposed rollback **will increase emissions of criteria pollutants and air toxics, and undermine state implementation plans**
 - CARB ran corrected CAFE model showing increases in criteria pollutant rather than reductions

Proposed rollback is unlawful

- The MTE revised determination is arbitrary and capricious
- Agencies **failed to provide critical pieces of information on which they relied** for the proposed rollback and have failed to timely cure this omission
- Inexplicably held back for weeks the transcripts from the three public hearings
- Agencies' process **fails to comply with multiple executive orders**: federalism, energy effects,
- Contravenes CAA; increases emissions
 - proposal to increase GHG emissions can be justified because the problem of atmospheric concentrations is so large and the increases EPA admits its action will cause are, in EPA's view, "relatively small."
 - EPA's proposal is unlawful because it is entirely unmoored from Section 202(a)'s required finding.
 - Failed to adequately explain the myriad departures in this proposal from the agency's prior positions
 - EPA failed to propose a finding that it is "necessary" to freeze the standards, or even to roll back the standards at all
 - There is, thus, neither a proposed finding that this additional lead time is "necessary," as required by Section 202(a)(2), nor a basis that could support such a finding.
- Analysis of costs and safety impacts are **so heavily flawed as to be completely unreliable**
- EPA's "cost of compliance" analysis rests, to a large degree, on its observation that burdens will be reduced by less stringent standards; not a basis for relaxation

- EPA **fails to sufficiently explain** from a policy perspective why a potential increase in compliance costs of \$1,365 are **so prohibitively high that the current standards must be flat-lined**, even in the face of burgeoning climate impacts
- In its 2010 light-duty rule, EPA concluded “the rule is estimated to have a measurable impact on world global temperatures. EPA proposes to find the opposite—that the impact of rolling back the existing standards will be “minimal.” EPA has neither acknowledged nor explained this change in position.
- EPA has made **several technical departures from its prior rulemakings** that require justification
- Far too little weight to those factors it must consider under the Clean Air Act, including increases in harmful air pollution
- EPA took on the goals and analysis of NHTSA under EPCA, while **completely ignoring its own statutory mandate to reduce air pollution, drive innovation, and protect Americans from catastrophic climate change**
- The Clean Air Act requires the EPA [to be able to] defen[d] its methodology for arriving at numerical estimates.” Documents from the record indicate that EPA identified serious flaws with NHTSA’s new and revised modeling
 - Even if EPA could claim “the Analysis” here was independent, that analysis is so fundamentally flawed as to be arbitrary and capricious
- Agencies’ analysis of the GHG benefits lost from rolling back the existing standards rests on a manipulation of the **SCC** which renders their entire cost-benefit analysis arbitrary and capricious
- Maintaining consumer choice not an objective of the Clean Air Act
- **Safety** considerations is not grounded in the Clean Air Act.
 - CAA section 202(a)(4)(A) specifically prohibits the use of an emission control device, system or element of design that will cause or contribute to an unreasonable risk to public health, welfare, or safety.
 - EPA did not propose to find that any specific “emission control device, system, or element of design” available poses unreasonable risks
 - modelling used to justify the standards has been exposed to **be erroneous to the point that its faulty inputs predict the opposite of what should happen in the real world**
- Proposed Rollback is Contrary to the Energy Policy Conservation Act (NHTSA specific, not summarized)

Technical Analysis

- Models, assumptions, model constraints, and other model inputs on which the Agencies rely, introduce **profound errors** into the Agencies’ **analyses and conclusions regarding safety, vehicle sales and costs, and macroeconomic impacts**
- Calculation of the vehicle sales impact comes from a new and un-peer reviewed “sales model” that has numerous flaws
- Fatality figures are primarily driven by NHTSA’s **fundamentally flawed, new, and un-peer-reviewed “scrappage model,”** which produces counter-intuitive and unexplained results
 - results are inconsistent with robust historical data and defy common sense, problems that are only highlighted by the complete absence of any explanation from the Agencies

- Analysis fails to acknowledge the increasing disconnect between vehicle mass and safety, as manufacturers turn to structural design and materials that while lighter, are stronger and have safety benefits
- Unsupportable fleet share model and their unjustified decision to assume a 20% “rebound” effect
- Causing people to drive more—which statistically would increase fatalities (all other factors being held equal)—has not been deemed a negative effect in federal transportation policy
- Fails to include an analysis of economy-wide employment and GDP impacts
- Agencies **do not actually claim the existing standards are technologically infeasible**
- Increase in costs of compliance nor the decreases in sales are plausible, and the **modeling and inputs used by the Agencies run counter to, or fail to consider, the available evidence**
 - Agencies have reduced the estimated fuel economy (and emission-reduction) benefits of certain technologies, without explanation
 - Simply increased their previous estimates of the cost of certain technologies, again without explanation
 - Not clear from the Proposal where the data used by the Agencies in the Argonne model used by the Agencies is from, or how the model produces its results (black box)
 - Ignored the data from Tier-I parts suppliers
 - No basis offered for new inflated technology cost estimate
- It is evident that the **model is unable to assess how much it will cost** automakers to comply with various levels of fuel economy or greenhouse gas emission reduction requirements, and as such, **reliance upon it is arbitrary**
 - Does not assess technologies by their cost-effectiveness, and therefore does not identify the most cost-effective compliance pathways
 - Model assigns certain technologies little to no effectiveness and the technologies are nonetheless added to vehicles and make them more expensive
 - Hard-wired the model to prevent it from applying available technologies
 - Force the combination of technologies in illogical ways that in turn, increase costs
- **Fails to consider how consumers will respond** to the reduced cost of operating the vehicle
- New sales model is unreliable
- Claim that thousands of deaths will result from the existing standards does not withstand scrutiny
- **Scrapage model is flawed, results meaningless**
 - Model that contradicts basic economic theory is directly contrary to OMB requirements
 - Deeply flawed both in its construction and in its inputs
- Doubling of prior **rebound** estimate based largely on the same evidence is arbitrary and capricious; **leaves out study that don’t support conclusion**
- Societal benefits do not outweigh costs; **removing scrapage model alone produces net societal costs**
- Addressing each supposed cost and benefit demonstrates that keeping the existing standards will result in a **net benefit of approximately \$168 billion**
- Agencies miscalculate the social costs of carbon

- When the full economy is considered, projected **job losses rise to between 180,000 and 275,000 in 2035**
- Fail to account for the harms from increased fuel consumption
 - Leads to higher prices, reduces disposable income, U.S. not insulated from price shocks, increased military spending

California Waiver (Comments on EPCA preemption not summarized)

- Proposal to revoke California's waiver is **unlawful**
- Congress' structure reflects recognition of, and respect for, the States' roles in protecting their residents and resources from harmful air pollution
- Legislative history actually supports the opposite conclusion from the one EPA proposes to reach
- **EPA is simply wrong** when it argues that agencies always have inherent authority to reconsider decisions
- Even assuming EPA had some implied or inherent authority to revoke an already granted waiver, that authority would be highly constrained and unavailable here
- Permitting EPA to revoke an already granted waiver based on the policy shifts of a new administration **would directly contravene congressional intent** and the text and structure of the waiver provision
- **None of the bases provides lawful grounds** for EPA's proposed revocation
 - EPA's reinterpretation of "such state standards" is impermissible and unreasonable
 - Proposed interpretation of "compelling and extraordinary conditions" is impermissible and unreasonable
 - Proposed interpretation of "need" also unambiguously foreclosed and unreasonable
- California is entitled to keep GHG and ZEV standards waiver
- Proposed reinterpretation of Section 209(b)(1)(C) is impermissible and unreasonable
- Proposed finding concerning inconsistency with Section 202(a) also lacks any evidentiary support and is arbitrary and capricious
- The analysis of the federal standards is so fundamentally flawed that it cannot support the proposed action on the federal standards, let alone revocation of California's waiver
- Proposed determination regarding **177 states** should be abandoned
 - **EPA does not identify any authority for its proposed determination** or provide any information on how it would be implemented
 - Unambiguous language of Section 177 negates EPA's position and eliminates any room for interpretation
 - Authority is granted directly and exclusively to states, with no intermediary role for EPA
 - A rule that prevents Section 177 States from adopting California's GHG standards but not any other California standards would result in creation of the "third vehicle" that Section 177 forbids

California Air Resources Board

Cover Letter

- Future envisioned by the rollback rule, on the federal agencies' own admission, is one in which **greenhouse gases nearly double from today**, further exacerbating climate change
- Human-caused emissions have already increased global average temperatures approximately 1 degree Celsius. **Hurricanes, rampant wildfire, drought, heat waves, and other extreme weather events are becoming more common and severe**
- **Technology on the road today has already beaten what the agencies project**, demonstrating the engineering creativity of the industry
- Agencies' technology analysis **artificially restricts the cost effective vehicle technologies** already in use or under substantial development. Instead of relying on real-world results, the proposal leads, inaccurately, to grossly inflated costs.
- The analysis is so disconnected from real world experience that even the vast majority of the **automotive industry agree that the proposal goes too far**, is not substantiated, and does not support continued investment in innovation
- The rollback **will cost consumers billions of dollars** over the lifetime of the vehicles
- Would **badly damage progress towards building an innovative and efficient auto industry** in this country, isolating America and diminishing its competitiveness as the rest of the world continues to move ahead
- CARB full analysis predicts **job losses between 90,000 and 160,000 by 2025**
- Agencies rely on inappropriate and illogical modeling to conclude that the rollback will increase highway safety
- Agencies appear to conclude that the best way to cut vehicle pollution and reduce fatalities is essentially to try to make new cars cheaper but more expensive to drive, expecting that this will reduce the use of older cars, but diminishing incentives to drive
- Modeling approaches that are fundamentally inappropriate and which do not reflect reality
- Underlying the flawed analysis this proposal conflicts with Congress's clear direction to keep improving cars and making them cleaner
- Departs entirely from the federal agencies' governing statutes to control emissions that threaten the public health and welfare
- Federal agencies' attempt not just to rollback the standards but to attack sovereign state prerogatives protected by Congress are the hallmark of unaccountable agency overreach, and will be reversed by the courts

Detailed comments (415 pages)

Summary

- Unsafe, unfounded, and illegal
- Proposal will waste fuel and other natural resources, increase costs for consumers, businesses, and federal, state, and local governments, destroy jobs, increase emissions accelerating climate changes and local health impacts, and break a unified national program for light-duty vehicles in violation of the relevant statutes and contrary to our Constitutional structure of cooperative federalism and shared sovereignty

- World's leading scientists: hundreds of millions of people would be displaced, millions would die, and trillions of dollars of harm would come to what remains of the global economy
- Rollback departs entirely from the Agencies' governing statutes, on the basis of hastily-assembled and profoundly flawed evidence
- Largely disregarded EPA's own technical experts – many of whom filed comments in the docket showing that the rule does not reflect their views. The Federal Administration also **has not consulted experts within the states**
- **Opportunities for the public to participate** in the proposed rollback, and even to review the proposal to comprehend it and prepare meaningful comments, **were flatly inadequate**
- CARB remains an expert vehicle regulator, authorized by Congress and empowered by a sovereign state. The **proposed rollback does not stand up to CARB's expert review**
- Ubiquity of error is not surprising, because the Agencies are laboring to evade their own well-supported conclusions
- Central claim appears to be that lower-polluting vehicles will be much more expensive than the Agencies projected just two years ago, and will require a far greater use of electrification technologies than predicted
 - First, they claim that these expenses if the rules are retained in their current form will result in a dramatic expansion of the used car fleet, and that fatalities will sharply increase because purportedly less-safe used cars will remain on the road longer
 - Second, claim driving in newer cars will dramatically increase if fuel economy improves along with emissions reductions, resulting in more fatalities
- Presumes without support that the **hypothetical increase in vehicles and vehicle durability will necessarily lead to more driving, without explaining why**
- Appear to conclude that the best way to cut vehicle pollution and reduce fatalities is essentially to make new cars cheaper but far less efficient
- Auto pollution has been falling for years and fuel economy rising, along with car prices, even as the industry has enjoyed record sales and the roads have become steadily safer
- The analysis underlying the proposed rollback proposal is **inconsistent with empirical information, established economic theory, and logic, and is premised on faulty models of consumer and vehicle manufacturer behavior**
- Proposal to withdraw California's waiver for its GHG emissions standards and ZEV regulations, which is packaged with and in part depends upon the Agencies' illogical analysis, is likewise illegal and arbitrary

CARB History

- EPA has developed decades of administrative practice consistent with this Congressional intent, and both California and the states that have opted into its program rely upon its vehicle program, with EPA's approval. Millions of people have benefitted as a result.
- The Agencies' late-breaking proposal to discover, decades later, that California's program is improper in major regards stands in stark contrast to this history
- Provides thorough discussion of CARB's long regulatory history and relationship to federal standards

Maintain or Strengthen the Existing Standards

- **Revised Determination** made critical decisions on the fate of the program improperly
- Agencies did not produce a comparable assessment updating the prior analysis or explaining why it was no longer representative
- **Proposal is not the product of reasoned decision-making** based on an objective review of the evidence regarding the development of technology, condition of the industry, need to protect public health and the environment, and potential to conserve energy
- Agencies announce new policy preferences – to not act to reduce vehicle air pollution or to improve vehicle fuel economy. The factual bases for these preferences are wrong
- Agencies’ proposed **rollback violates Congressional direction** to conserve energy, set the maximum feasible fuel economy standards, and reduce emissions that endanger public health or welfare
- Fail to acknowledge that by century’s end global ambient **CO2 concentrations will be at levels not present for millions of years**; assert would not meaningfully impact the climate; This is a **nihilistic and fatalistic view**.
- Entirely inconsistent with its **statutory obligation** to promulgate emission standards at a level needed to protect the public health and welfare
 - **EPA has not properly weighed the relevant factors** for changing the existing emissions standards
 - Congress intended Section 202(a) of the Clean Air Act to be a “technology forcing” statute
 - Acknowledges that the technology needed to comply with more stringent emission standards associated with the baseline “no action” alternative currently exists
 - EPA attempts to act contrary to Congressional intent to internalize the cost of pollution and ensure public health is protected
- **Existing compliance flexibilities should not be changed**
 - HEVs are widely available at varying levels of power and performance across vehicle sizes, and CARB does not believe it deserves special treatment
 - Incentive for large hybrid pick-up trucks should remain limited in scope to ensure program emission benefits are not eroded
 - Compliance flexibilities for natural gas vehicles or high-octane blend fuel vehicles are not appropriate at this time
 - New compliance flexibilities (or off-cycle credit categories) for autonomous vehicles are not appropriate
- Agencies **have not established why their prior decisions must be changed**
- EPA has arbitrarily delegated its authority to others, while declining to exercise its own expertise
- CARB has a deep bench of expertise, developed over decades (provides bios of key staff)

Technology Analysis

- It is **severely wanting**, such that even if the Agencies had discretion to adopt views contrary to Congress, **it could not possibly support the views they have adopted**
- Dramatically **overinflates the costs** of compliance with the existing standards
- Makes a series of unsupportable assumptions to insist that these inflated costs will lead to fatalities

- In areas of engines, transmissions, and vehicle technologies, the Agencies' analysis reflects changes to **generally assign less benefits, higher costs, or newly imposed constraints that prevent deployment on significant portions of the fleet**
- In the area of electrification, the Agencies inexplicably **revert back to reliance on outdated components** to develop unrealistically oversized technology packages and excessive costs beyond what current vehicles are already achieving.
- Several key assumptions and methodologies combine to **generate artificially high technology costs through excessive over-compliance**, utilization of technology to improve vehicle performance rather than GHG emission performance, and an erroneous methodology that fails to apply cost-effective technologies in a logical fashion

Engine Technologies

- **Underestimations (or unsupported exclusions) in several engine technologies** (HCR1), transmission technology, and vehicle technology (mass reduction, aerodynamic assumptions, A/C crediting).
- Run was done where the CAFE Model restrictions on HCR1 were removed, thus allowing the technology to be available for all engines, regardless of the number of cylinders., the average vehicle costs to comply with the existing standards (for model years 2017–2032) are over \$200 per year lower
- Indicating the Agencies are no longer considering the HCR2 because it was originally developed using GT-POWER is a particularly odd rationale considering the majority of the engine maps used by Autonomie rely on engine maps that were originally developed by IAV using GT-POWER
- Wrongly restricted cooled exhaust gas recirculation for use on turbocharged engines
- Agencies ignored the Miller cycle
- Did not appropriately consider advanced cylinder deactivation
- **CAFE Model disallows manufacturers to pursue multiple emerging engine pathways**, which does not reflect reality

Vehicle Technologies

- Agencies made **incorrect and inconsistent assumptions on vehicle transmissions**
- **Underestimated aerodynamic improvements**
- **Incorrectly and overly limited mass reduction**; do not consider secondary mass reductions
- Agencies **should keep air conditioning efficiency and leakage credits**
 - eliminating HFC credits makes EPA's standards less effective, for no reason at all; relaxation harms states and the public in general
 - Strongly recommends EPA maintain the maximum efficiency credit caps in the existing regulation
- **Inflated electrification costs to be excessive and unrealistic**
 - Relying on outdated component specifications to determine component costs and efficiencies, failing to properly account for improvements in components and costs or consider newer data, incorrectly identifying and assessing existing technologies, improperly oversizing components and batteries for the modeled vehicle classes, and underestimating efficiencies of the technologies by improper modeling

- Run sensitivity case demonstrating that the results of the Agencies' analysis can be highly sensitive to the assumed cost and effectiveness values of the electrification
- ZEV should be part of baseline
- **Non-battery components were non-descriptive and incorrect**
 - Inappropriately relying on older data on electric machines and inverter efficiencies across all electrification applications
 - Fail to account for component efficiency improvements and cost reductions
 - Proposal lacks information on non-battery component performance sizing and costs
 - Analysis and modeling of battery technology is inadequate to support an informed rulemaking. Previous analysis and modeling efforts were much more rigorous and transparent
 - Did not appropriately use BatPac model
 - Batteries are wrongly sized
 - BEV and PHEV configurations do not match on-road vehicles
- Strong hybrids analysis has several errors, incorrect assumptions, and methodology flaws
- For mild hybrids, the Autonomie modeling incorrectly assigns a smaller improvement for BISG and CISG systems than those systems can achieve

CAFE Model

- Agencies **have inappropriately modeled substantial over-compliance** with the proposed rollback without any reasonable basis, thereby violating their own guidelines and statutory direction
- **Algorithm results in an illogical decision making process** for how a manufacturer would achieve compliance and results in a more costly compliance path; algorithm does not even consider the full benefit of the technology
 - Changed model to correct issue, producing lower costs
- **Model applies technologies** that have been **modeled erroneously such that they provide little or no benefits (or even disbenefits)**
- Agencies **did not conduct a performance neutral analysis** to appropriately assess the isolated impacts of the existing and proposed rollback standards
- **Inappropriately restricted engine resizing**; erroneously resized engines
- Files consistently show substantial improvement in performance is modeled even when the engines were deliberately resized to maintain baseline vehicle performance.
- **Overly constrain engine optimization** for manufacturers with shared engines across multiple vehicles
- Modeling methodology errors have an even larger impact on an underestimation of the efficiency gains from various electrification pathways
 - Unlikely combination of engine and strong hybrid
 - Data shows that every single modeled package resulted in improved performance relative to the original vehicle performance

Fleet Impacts Assessment

- Relying on consumer preferences to generate asserted (and false) benefits of the rollback is improper to consider under Section 202 of the Clean Air Act; **“Consumer preference” is not a factor**
- Do not adequately model how vehicle values will change in response to improving fuel economy, or the competing effects of other attributes
- Agencies use **improper methods to model new sales, scrappage, and safety effects**, which in turn produce incorrect and illogical results; Rebound inflated
 - **Warrants judicial correction if the proposal is not withdrawn**
- Accurately capturing the relative impact of sales shifts versus no-buy decisions would require a more detailed consumer choice model, as recommended by the CAFE Model peer reviewers
- **Omission of fuel economy/or vehicle operating costs** (or any other vehicle attributes besides price) in the new vehicle sales model is inconsistent with the Agencies’ own discussion and treatment of consumers’ valuation of future fuel savings
 - Omission of the fuel savings that would result from the existing standards is also a misapplication of the Gruenspecht effect
- There is **evidence that consumers in fact value fuel-efficient vehicles** and seek to purchase them
- Consumers also value and are willing to pay for electrification
- Method by which the willingness-to-pay values for electrified vehicles was calculated is flawed
- Remaining weaknesses in the market demonstrate the need for regulation; manufacturers are likely undercutting consumer knowledge and the market for advanced vehicles
- There are a **number of technical problems with the Agencies’ dynamic response model**
 - Using time-series analysis to analyze policies that make structural changes, like the proposed rollback, is inappropriate
 - Fleet Share Model is not based on reasonable assumptions
 - New sales model is invalid and should not be included in the CAFE Model

Scrappage Model

- The **“Dynamic Scrappage” Model** relied upon is flawed
 - There is **no connection between the sales model and the scrappage model** and the number of vehicles sold has no effect on the scrappage model
 - the scrappage model and the fatalities it projects are solely a function of the model’s dubious projections that an increase in existing vehicle prices will lead to individuals holding onto their vehicles rather than scrapping them, the fleet size increasing as a result, and the unsupportable assumption that those vehicles will be driven just as much as the average vehicle of that type and age, and the fact that increased driving leads to increased risk of accidents and fatalities
 - Model is also **plagued by improper design and validation that disqualifies its use** to predict the effects of sales and scrappage that the federal Agencies contend will occur
 - Scrappage model causes vehicle retention (and thus the total number of vehicles) to balloon exorbitantly under the existing standards
 - VMT these vehicles are expected to drive is overestimated because the Agencies have failed to consider the realities of what factors influence travel demand.
 - Scrappage model suffers from a number of inconsistencies with economic theory

- These problems should disqualify the use of this model for evaluating the scrappage effects
- Largely driven by the assumption that new vehicle prices will be lower in the proposed rollback scenario than under the existing standards scenario. However, the Agencies simply assume this to be the case with no supporting evidence

Rebound Effect

- CAFE Model asserts an **exaggerated, unfounded rebound effect**
- As a result of the over-estimate, the Agencies' analysis artificially deflates the criteria, toxics, and GHG emission increases from rolling back the existing GHG standards and augural fuel economy standards
- Fails to account for travel demand
- Method of applying the rebound effect leads to overestimating the VMT change between the augural and proposed standards
- Method for calculating the effects of rebound in their analysis mixes the impacts of the rebound effect from changes in fuel economy with changes in gasoline prices

Fatality Analysis

- Fatality analysis is also flatly wrong in several respects
- It is **inappropriate for NHTSA and EPA to argue that they cannot fulfill their statutory obligations** to improve fuel economy and reduce harmful air pollution because they need to keep people safe by keeping them from driving
- There are many ways NHTSA can directly improve highway safety
- NHTSA fails to properly account for the safety benefits that new safety technologies will generate for the entire on-road fleet.
- **Fatality rate estimates in NHTSA's model are faulty** because NHTSA's model only considers the effect of vehicle model year on fatality rates and does not control for calendar year effects, important driver characteristics, and crash circumstances, such as the likelihood of speeding and seat belt use, which are crucial factors in determining the fatality risk of a crash
- Agencies are **wrong about fatalities from mass reduction**; lack statistical significance
- NHTSA overlooks and ignores recent changes and proceeds with their safety assessment without accounting for weakening relationship between vehicle mass and safety
- Agencies wrongly conclude the existing standards will cause highway fatalities

Public Health

- Proposal increases emissions, **frustrates meeting the NAAQS, harms public health, and threatens the climate**
- Would yank away tools states, including California, need to comply with state and federal ambient air quality standards, and to meet climate mandates
- **Failure to comply with these standards has serious financial and public health consequences**, yet EPA is using its authority to render these standards nearly impossible to meet
- Such interference with states and their police power obligations to protect their publics on behalf of an executive agency is simply improper

- All of the California ozone and PM2.5 **SIPs submitted to EPA since approximately early 2016 have included benefits of the California Advanced Clean Car program**
- CARB staff have estimated that the Agencies' proposal to rollback fuel economy and GHG standards can significantly impact California's criteria and GHG emissions in future years
- If California's programs to achieve reductions from the light-duty sector are invalidated, the inventories based on EMFAC 2014 would no longer be valid, and **EPA would disapprove SIPs** and associated motor vehicle emission budgets
 - During a conformity lapse, no new RTPs, TIPS, or regionally significant transportation projects may be adopted or approved
- Proposal **increases community exposures to air pollution**; increases the concentration of harmful pollutants near major roadways
 - Increasing ZEVs are essential to improving the health of those living near major roadways
- Significant climate impacts of motor vehicle emissions compel reductions
 - 2018 Report: Indicators of Climate Change in California; California's Fourth Climate Change Assessment
- ZEV regulation is designed to accelerate technology development through steadily increasing minimum sales. These technologies are necessary to reverse the increasing emissions from the transportation sector

Social Cost of Carbon

- The SC-CO2 analysis is undermined by **several fatal flaws**, including the utilization of an inappropriate and poorly modeled "domestic" social cost of carbon, and presenting only two inappropriate discount rates.
- Decision to utilize a "domestic perspective" to calculate social cost is arbitrary and capricious
 - Domestic SC-CO2 does not follow the best available science
- Lack of modeling results and clarity about what the Agencies actually considered makes an informed analysis impossible
- Discount rates of only 3 and 7 percent is also against the IWG recommendations

Congestion and Noise

- **Overstated congestion and noise benefits** for the rollback
- With a more appropriate choice of rebound effect of 10 percent and the dynamic scrappage model turned off, the noise and congestion benefits of the proposed rule are more than six times smaller than what is presented in the proposed rulemaking

Energy Production and Security

- The **U.S. is not projected to become a net petroleum exporter**, and even if it were, the rollback would have negative impacts on the United States. This argument is faulty because it:
 - Ignores short run damages caused by increased oil consumption and imports,
 - Relies on projections of net imports of oil which also do not take account of the effects of the proposed rule, and
 - Is not supported by the evidence

- Rollback **does not account for the inequitable and regressive distribution of economic harm** of the rise in oil prices
 - Even if the United States becomes a net exporter of oil products and higher spending on gasoline will result in a transfer within the country, the transfer will still have a regressive effect
- **U.S. economy remains vulnerable to oil price shocks**, despite increased in domestic production
- No substantial justification was given to explain why the Agencies chose to focus solely on imports
- Analysis does not take into account the macroeconomic impacts and equity implications of the reduction in consumers and businesses disposable income, and the secondary effects of such reduction, on the U.S. economy
- Cost estimates **fail to account for many important economic damages that will result from reduced energy security** which is precisely why EPCA was passed

Macroeconomic Impacts

- Agencies failed their duty to analyze the impacts of the proposed rollback on the macro-economy fully and properly
- Agencies **did not conduct any analysis on distributional or economy-wide impacts** or otherwise evaluate the economic practicability of the proposed rollback
- Expanding the macroeconomic analysis to the entire economy and correcting the Agencies' inaccurate assumptions show that the proposed rollback has larger negative impacts than the Agencies suggest
- Narrow focus on direct, automotive employment impacts is **inconsistent with the EPA Guidelines** for Preparing Economic Analysis
- **Rollback would harm the consumers** the Agencies are claiming they are trying to help; net fuel savings

Revised Modelling Analysis

- **Applying only a few directionally more appropriate corrections finds substantially different results**; proposed rollback will result not in net benefits, and instead result in \$168 billion net costs
- Net increase in cost of at least \$1,000 per vehicle
- Even with only a partially corrected run, the rollback standards actually cause increased emissions for all five pollutants relative to the existing standards

Waiver

- Clean Air Act's waiver provision **does not authorize EPA to revoke the already granted waiver** for California's Advanced Clean Cars program, in whole or in part, on any grounds, let alone the grounds proposed here
- Proposal to revoke California's waiver for its GHG and ZEV standards for model years 2021–2025 is unlawful
- **Plainly lacks the authority to revisit its prior adjudication**, on which California and other States have relied for five years, simply because this administration wants to make policy changes

- Assertions of implied or implicit authority to revoke an already granted waiver are entirely without merit
- EPA has not advanced a theory that supports its purported implied authority to revoke
- States make decisions about other regulatory actions to take (or not take) based on expectations of emission reductions the waiver standards will produce
- Legislative history confirms the absence of authority to revoke
- Proposal to revoke California's waiver for its GHG and ZEV standards is unlawful because the basis for that revocation falls far outside the bounds of any limited, implied authority that could even conceivably exist
- All of the purported factual bases are tied to improper reinterpretations of the law that cannot be applied to California's already granted waiver
- Improperly seeks to place the burden on California to show that it remains entitled to a waiver it was granted more than five years ago
- EPA's proposed conclusion that it must withdraw California's waiver is unfounded and unlawful
- A conclusion by another agency regarding preemption does not and may not dictate EPA's actions
- EPA must consider California's need for its motor vehicle program as a whole to address compelling and extraordinary conditions in the State
- Reviewing the need for California's vehicle emissions program on a standard-by-standard basis deprives California of this discretion by **positioning EPA to micro-manage California's program**, essentially allowing EPA to second-guess California as to the State's need for each of its individual standards
- Proposed interpretation of "compelling and extraordinary conditions" is inconsistent with the plain text and congressional intent
- EPA may not revoke any part of California's already granted 2013 waiver
- California **needs its GHG-reducing standards to meet the extraordinary and compelling conditions caused by GHG emissions**
- California also needs its GHG-reducing standards because **those standards address California's on-going criteria pollution challenges**
- EPA improperly relies on California's "Deemed to Comply" language to justify its unlawful revocation of California's waiver for GHG and ZEV standards
- There is no doubt that technology exists to meet California's GHG standards
- It would be a costly and time-consuming process for CARB to conduct an in-depth analysis of feasibility as it did in developing its standards. California should not and cannot be expected to complete such an analysis in response to EPA's sua sponte proposal to withdraw California's waiver. And California certainly cannot be expected to complete that analysis within the inadequate 63-day public comment period
- California's existing electric charging infrastructure and planned additional charging stations are more than adequate to fuel the vehicles mandated by ZEV standards through 2025 and beyond

EPCA pre-emption (not summarized)

NHTSA and EPA failed to meet multiple attendant obligations

- ESA

- Coastal Zone Management Act
- National Historic Preservation Act.
- Arbitrarily dismissed the environmental justice impacts
- Failed to consult Native Tribes
- Will exacerbate floods, impair wetlands, and adversely impact wildlife, fish, and migratory birds
- Violated the Environmental Research Development Demonstration Act

Conclusion

- Rollback proposal is wrong on the facts, wrong on the law, offends our constitutional structure, and must be withdrawn
- Proposal offends the science, the law, and the evidence
- Program has met California's needs to reduce emissions and develop advanced technologies. It has met the industry's needs for certainty
- Existing standards remain appropriate. There is nothing to "propose" without a substantive basis; public health is not a bargaining chip for "deals" reached for nothing more than their own sake

8 Governors (TX, KS, KY, ME, MS, NE, ND, OK)

- **United support** for the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule
- Environmental preservation and free enterprise are compatible and necessarily linked
- Standards enacted by the previous administration are a prime example of such a misguided policy
- Will make cars more affordable
- Onerous and unnecessary emissions standards imposed by only one of the fifty states

NACAA 8 pages

- NACAA opposes this deeply flawed proposed rule
- U.S. is experiencing **ever-increasing incidents of these severe impacts**
- **Many states, cities and counties across the nation are counting on this rule** – with its current standards and implementation dates – to meet their air pollution and state- or locality-specific GHG reduction goals
- Many areas of the country **are depending on these reductions to attain and maintain health-based NAAQS**
 - states and localities may need to seek offsetting emission reductions from other sectors, such as utilities and industry, to attain and/or maintain compliance
- **Substantial rise in oil consumption would bring with it increased emissions of criteria pollutants and toxic air pollutants including known carcinogens**
- Current emission standards are harmonized with California's and, when promulgated, were agreed to by all stakeholders, including auto manufacturers. Those standards are supported by a strong technical and analytical record

- Technologies needed to meet the existing MY 2021-2025 emission standards are already available and cost-effectively in use today
- design of the national program, as established in the 2012 rule, is working to preserve consumer choice while, at the same time, reducing emissions and fuel consumption
- As evidenced by memoranda filed by EPA's Office of Transportation and Air Quality (OTAQ) in the rulemaking docket EPA technical staff do not agree with NHTSA's approach or many of the conclusions
 - despite EPA's dispute of NHTSA's claim of 1,000 fewer highway fatalities per year included in a draft of the proposed rule, the proposal as released continues to include the same faulty NHTSA conclusions
- Synapse found that nationwide employment would grow by **more than 100,000 jobs in 2025 and more than 250,000 jobs in 2035 under the existing standards**

Waiver

- At the very core of this regulatory proposal is an issue on which NACAA is unwavering: the **issue of states' rights**
- Not just a dispute between California and EPA, and **it is not about California setting standards for the rest of the country**
 - California does not impose its standards on any other jurisdiction
 - Twelve other states and the District of Columbia have independently exercised their Section 177 authority
 - California program is vitally important to the Section 177 states and is also vitally important to many non-177 states
- **Departs from half a century of EPA practice** and are squarely at odds with core principles of cooperative federalism

Flexibilities

- **NACAA does not support discontinuing credit programs**
- Work with CARB, other state and local air agencies, auto manufacturers and other stakeholders to seek additional, reasonable, well-defined flexibilities with a clear understanding of the long-term impacts

NESCAUM

- NESCAUM strongly opposes the SAFE Vehicles Rule in its entirety
- Existing national program is working exactly as intended
- Most recent surveys indicate that consumers continue to place a high value on fuel efficient vehicles of all types
- Sales of electric vehicles through September 2018 are up 64 percent over 2017 sales
- Deep reductions from the nation's fleet of passenger cars and light-duty trucks are needed on an accelerated time frame in order to avoid the worst effects of climate change
- Many of our **states have committed to an 80 percent reduction in GHG emissions by 2050**

- Our states have been working collaboratively with California and other Section 177 States to accelerate adoption of electric vehicles and development of a robust charging/fueling network
- Automobile manufacturing is now a global industry that is trending toward the adoption of increasingly more stringent motor vehicle emission and fuel economy requirements

Waiver

- EPA's regulation of GHG emissions under the Clean Air Act and EPCA's regulation of fuel economy are two entirely distinct regulatory schemes that serve different purposes
- Impact of California GHG standards on fuel economy is an incidental one
- Tailpipe emissions of other pollutants, such as NOx, also correlate with fuel consumption – lower fuel consumption results in lower emissions
- Ironically, despite having no clear authority to revoke a waiver, EPA applies the same criteria the agency relied on to approve the waiver to now justify revocation of the waiver
- California's authority to regulate emissions from new motor vehicles is at least as broad as EPA's authority
- EPA has consistently interpreted § 209(b) to preclude conditioning a waiver on a pollutant-specific demonstration of compelling and extraordinary conditions
- EPA wrongly asserts that California's GHG emission standards and ZEV regulation cannot meaningfully address climate change
- Light-duty vehicles are the largest contributor to GHG emissions in 177 states
- California's GHG standards and ZEV regulation are technologically feasible
- Even as automakers continue to expand their electric vehicle offerings, the industry has failed to make a meaningful investment in marketing these advanced technology cars
- If, in fact, Congress has implicitly authorized EPA to revoke an existing waiver, such revocation could only be based on grounds that would justify denial of a waiver in the first instance
- EPA has offered no explanation for its departure from its past interpretation and practice
- EPA can cite no legal authority authorizing it to revoke California's CAA waiver
- **§ 177 contains no limitation on the types of pollutants** for which motor vehicle emission standards are authorized
- Under § 177, states with an approved State Implementation Plan to achieve or maintain a NAAQS are eligible to adopt California's standards
- By prohibiting states from adopting California's GHG standards, the SAFE Vehicles Rule **could have the effect of creating a "third car"**
 - would have the absurd result of preventing Section 177 States from adopting any of the California standards, an outcome that is patently contrary to Congressional intent
- EPA still **could not preclude state regulation of GHG emissions because of the established link between higher atmospheric temperatures** caused by GHG emissions and the formation of ozone
 - EPA has repeatedly expressed its own understanding that GHG standards should be viewed as a strategy to control criteria pollutants

NYSDEC (26 pages)

- **New York State rejects the very premise** of the "SAFE" Rule and oppose the implementation of any regulations that weaken federal emission standards
- **EPA is obligated to establish standards** to protect public health and welfare from the threat of climate change caused by increasing GHG levels
- If the United States and other nations do not take the climate threat seriously, we will face a future of flooding amid rising sea levels, wildfires and drought, more extreme storms, and dangerous heat waves within a few decades
- **EPA assumes that global temperatures will increase by 7 degrees anyway** - a level that will be catastrophic to the planet- so the additional contribution of this proposal does not matter
- The transportation sector is the largest emission sector in the United States
 - therefore one of the most substantial ways of addressing climate change and preventing the global catastrophe
 - EPA errs by viewing this action in isolation from other actions to address climate change
- Rollback by **greatly understating the benefit** of emission reductions measured by the social cost of carbon
- MY2021-2026 vehicles apparently remaining in service for up to 40 years, these vehicles will continue to emit greenhouse gases in greater amounts than those in the No Action alternative
- EPA and NHTSA are shirking their statutory responsibilities
 - EPA has been charged with protecting the public's 'health' and 'welfare,' ... a statutory obligation wholly independent of DOT's mandate to promote energy efficiency
- **NHTSA has overstepped its authority by dictating environmental regulatory and policy matters** to another agency in contravention of NEPA
- Effect of the current proposal will be the effective removal of any controls on these GHGs (refrigerants) in new vehicles
- Proposal compromises achievable environmental protections in order to meet vague goals supposedly related to safety and consumer costs
 - calculations are not reasonable
 - traffic deaths dropped 1.8 percent in 2017 relative to 2016, and are down an additional 3.1 percent in the first half of 2018
- EPA's authority and obligation to address motor vehicle GHG emissions is the only alternative for controlling GHG emissions associated with light-duty vehicles
- Air conditioning and off-cycle compliance flexibilities may be useful flexibility mechanisms to absorb potential shocks to the market, or other unanticipated disruptions
- Assumptions regarding **light-weighting of vehicles suffer from internal inconsistencies**
- EPA staff appear to have attempted to notify NHTSA staff on several occasions that numerous, significant discrepancies, inconsistencies, and errors existed within the CAFE model
 - These flaws, if unaddressed, significantly overestimate the fleet size, accompanying VMT, cost of compliance, and traffic fatalities while simultaneously underestimating the availability and effectiveness of CO2 reduction technology
 - NHTSA, as lead agency, started with a predetermined conclusion and crafted a narrative and utilized distorted data to support said conclusion
 - EPA, as a cooperating agency, deferred its statutory obligations under the CAA

Technology

- Agencies' technology assessment **erroneously found that technology development did not support the current standards**
- Agencies **apparently believe that technology development will come to a standstill** and the best we can hope for over the next 8 years is meeting model year 2020 standards
- Proposal discounts the use of widely deployed and emerging technologies
- Agencies found in 2017 that OEMs have a vast array of established and emerging technologies available to achieve compliance
- Existing standards are technologically feasible, economically practicable, and serve the needs of consumers. There is no compelling reason to weaken them
- **U.S. will cede development of advanced technology vehicles** to countries such as China that are actively pursuing electric vehicle policies
- Consumers value fuel efficiency and are willing to pay more for vehicles with improved fuel efficiency
- Classifying more passenger cars as light-duty trucks will only serve to increase the percentage of light-duty trucks, widening the passenger car/light-duty truck split, and potentially leading to nonattainment of the 2020 model year CAFE requirement

Cost/Benefit Analysis

- Increasing the disposable income to consumers through **less gasoline consumption will have a greater impact on economic growth than more profits** to vehicle manufacturers.
- Increased efficiency allows consumers to spend less money on gasoline which they can spend in other, more productive, sectors of the economy
- The agencies postulate that the OEMs will benefit through lower compliance costs and can avoid CAFE fines. On the other hand, the agencies further state that all their cost savings will be transferred to consumers in the form of lower prices and that OEMs will voluntarily forego profits on balance, but will be financially unaffected

Waiver

- A leading court decision explained: "There are overwhelming indications in the legislative history that Congress intended California to enjoy the broadest possible discretion in selecting a complete program..."
- **Act clearly permits California to adopt its own emissions standards**, including for GHGs, and other states have, at their option, the authority to adopt such standards
- EPA's interpretation that it possesses the authority to withdraw a legally granted waiver is strained and overreaching
- Now, **14 years after California (and 17 states) have adopted meaningful regulations**, and 6 years after the federal agencies began adopting its regulation, EPA and NHTSA, in a further attempt to obscure the purpose of § 209 of the Act, make the claim that the original Congressional intent for § 209 was to regulate "smog forming" pollutants
 - Clearly leaves out other pollutants such as particulate matter and carbon monoxide, in addition to GHGs

- California and New York have had a ZEV mandate since the 1990s. At the very beginning of the program, the standards regulated criteria pollutants and were not confined to smog-forming pollutants as EPA claims
- **ZEV mandate reduces criteria, mobile source air toxics, and GHG emissions.** EPA and NHSTA state the "proposal does not directly involve pollutants such as carbon monoxide, smog-forming pollutants

Conclusion

- The standards as proposed **will significantly increase emissions of GHG, criteria, and toxic pollutants**; significantly increase fuel consumption; cause fiscal harm to consumers; adversely impact human health; and harm the environment
- Should the agencies persist with this misguided rulemaking, **New York will pursue all remedies** to stop this action to protect the health and welfare of our citizens and the global environment

National Tribal Air Association

- NTAA **opposes the agencies' proposal** to amend the GHG standards and fuel-efficiency standards under the SAFE Vehicles Rule
- No one likes paying for gas—a likelier reason that hybrid sales are low is that hybrid vehicles are outside many people's experience
- Agencies contend that making vehicles lighter will reduce safety for their occupants, and thus vehicles should be kept heavier and less efficient. This conclusion **is flatly contradicted by the findings of the National Academies of Science**
- Cars and trucks are among the largest sources of GHG and air pollutant emissions in our nation
- **Additional emissions in non-attainment areas** would impact current emissions levels and would shift more of the burden of compliance to stationary sources like refineries and power plants' ability to meet standards
- Will not adequately address climate change and fails to protect future generations. Climate change impacts are felt across the United States and are **already dramatically altering our environment, causing more frequent and intense heat waves, more intense precipitation events, and more prolonged drought**
- Despite these more severe impacts to Tribes as populations vulnerable to climate change, the **agencies completely failed to conduct any outreach or coordination** to these populations, **ignoring the requirements of Executive Order (EO) 13175**
- Rule **also undermines Tribal sovereignty by weakening their power** to improve air quality and reduce GHG emissions on Tribal lands, and will increase air pollution and its accompanying health problems for Tribes.
- The **agencies must engage in government-to-government consultation** on this and future actions related to GHG emissions and air pollution, especially considering the unique and disproportionate vulnerabilities to climate change experienced by Tribes.
- NTAA **supports California's ability to maintain the waiver**

- **Goes against the basic principles of cooperative federalism** and rollbacks states' authority to protect their constituents from harmful air pollution and consequences of weakened GHG standards
- **NTAA has interest in ensuring California's ability to establish more stringent vehicle emission standards** than the federal level to ensure Tribes under Treatment as a State status have the option to set more stringent standards if they so choose

Sac and Fox Nation (also submitted by Leech Lake band of Ojibwe)

- Sac and Fox Nation **opposes the agencies' proposal** to amend the GHG standards and fuel-efficiency standards under the SAFE Vehicles Rule
- Strongly disagrees with the agencies' conclusions about vehicle technology and safety
- Proposed rule **will contribute to climate change** by increasing GHG emissions from the United States transportation sector
- Will not adequately address climate change and fails to protect future generations
- **Adverse effects of climate change are keenly, and uniquely, felt by Tribes and Alaskan Native Villages**
- Despite more severe impacts to Tribes as populations vulnerable to climate change, the **agencies completely failed to conduct any outreach or coordination to these populations, ignoring the requirements of Executive Order (EO) 13175**
- **Undermines Tribal sovereignty by weakening their power** to improve air quality and reduce GHG emissions on Tribal lands
- Supports California's ability to maintain waiver
- Tribes have the option to be more stringent in setting emissions standards than the federal guidelines under Section 209
 - Has interest in ensuring California's ability to establish more stringent vehicle emission standards than the federal level to ensure Tribes under Treatment as a State (T AS) have the option to set more stringent standards if they so choose

South Coast Air Quality Management District (SCAQMD)

Cover Letter

- **We have serious concerns regarding this proposal** which, if finalized, could hamper our efforts to attain federal air quality standards
- **Deeply troubled by signals that EPA is considering revoking the waiver** for California light-duty vehicle standards
- False and misleading characterizations regarding the availability of advanced automotive technologies and vehicle safety
- In 2023 – the year in which we face a hard deadline to attain the Federal ozone standards – we **must reduce NOx emissions by 45% beyond existing requirements**. In that year, light duty vehicles are estimated to contribute 11% of our basin's VOC and PM2.5 emissions, and 9% of our NOx emissions. This **estimate presumes that the current standard is in place**
- Proposed rule **would also impact air quality in areas beyond southern California**

- Approach to **roll back the standards has not been widely embraced by the automotive industry**
- Agree with many commenters and industry stakeholders that a 50-state vehicle emissions standard is by far the preferred approach
- We will **need to rely on California's more stringent standards to meet federal ozone standards**
- There is a litany of proven technologies both available and advancing rapidly to curb fuel efficiency and reduce emissions without sacrificing performance or safety
- Instead of addressing the extensive technical record established both NHSTA/EPA and CARB's mid-term reviews and providing an even-handed treatment of advanced vehicle technologies, the proposal focuses on several examples that, with minimal investigation, are quickly proven not to be true
- In southern California, **demand for electric vehicles is strong and demand for fuel cell vehicles – currently only available in certain areas of California - far outstrip demand**
- We should not be ceding our leadership in advanced vehicle technologies or we will lose to China and other countries that continue to make these investments
- Find the proposal's characterization of fuel-efficient vehicles as somehow less safe specious and unsupported
- Raise a number of legal issues and concerns with the proposal, as detailed in the attached comments

Detailed Comments - Legal comments on waiver and preemption (44 pages)

- EPA counts as a federal agency that **must comply with general conformity requirements**
 - EPA does not assure conformity because it does not follow general conformity procedures, and the agency nowhere shows its action will not increase the frequency and severity of violations in nonattainment areas
 - California Air Resources Board staff have informed South Coast District staff that the **"preferred option" in the proposal has an impact scenario of a 1.25 tons per day increase in NOx emissions and a 0.21 tons per day increase in fine particulate matter emissions in 2031**
- There is nothing in NHTSA's separate, happenstance authority to set safety standards for cars and trucks that enlarges NHTSA's discretion to consider safety matters in the implementation of EPCA
 - NHTSA must acknowledge its approach is entirely unmoored from all known, permissible legislative and judicial considerations of "safety"
- Collateral estoppel will bar the DOJ from defending any final action that asserts State GHG regulations are preempted by EPCA
- Whether or not EPA has authority in the abstract to withdraw a waiver issued over five years ago, it **cannot do so on the basis of preemption by EPCA**
- **Statutory grounds for rejecting a waiver are very clear and narrowly limited**
- EPA's **approval of the California standards into the state implementation plan "federalizes" those standards** so that, at minimum, they are entitled to harmonization with EPCA
- Now that **many states have included the waiver rules in their Clean Air Act programs, and are relying on them for emission reductions**, EPA must consider the consequences of removing these rules, or its analysis is arbitrary and capricious
- EPA's action in granting the waiver also "federalizes" the California rules

- Congress deliberately designed the federal statutes to provide for **cooperative federalism**
- California waiver rules are part of Congress's plan for implementing the CAA and are entitled to be treated like federal law
- The need to address California greenhouse gas standards does not materially change the existing two-tier system
- Detailed NHTSA preemption comments (not summarized)
- **Proposal is unlawful due to procedural violations**
 - Combination of these **divergent types of actions in one proposal** and record is neither appropriate nor authorized
 - **EPA cannot exercise its authority to revise regulations without a valid mid-term evaluation**
 - EPA lacks authority to act on other waivers or to make rules or advisory statements concerning potential actions on other waivers
 - **Denial of requests to extend the comment period was arbitrary**
 - **EPA political appointee that cancelled public hearings in Los Angeles and Washington D.C. did not have legal authority to do so**
- **EPA lacks authority to reconsider a granted waiver** because of the operation of CAA section 116
- EPA lacks authority to reopen the adjudication of a 209(b) waiver that was granted years ago and is not pending judicial review
- **Reopening violates the APA section 555(b) "conclusion of matters" requirement**
- EPA has no broad mandate to assure that California's emission control program conforms to the Administrator's perceptions of the public interest
- Proposal ignores, without discussion, former Administrator Johnson's "alternative" test

Climate Mayors (individual form letter comments from more than 25 mayors)

- National coalition of 412 U.S. Mayors
- Strongly support the current Corporate Average Fuel Economy (CAFE) standards and urge the Trump Administration to uphold this important policy
- By increasing vehicle efficiency, these standards have decreased harmful pollution that makes Americans sick, saved families billions of dollars at the gas pump, and spurred innovation and job creation
- Each letter provides unique examples of local programs

Pennsylvania Department of Environmental Protection (14 pages)

- Pennsylvania has concerns with the joint Proposed Rule in part because it **threatens the California vehicle emissions standards, which Pennsylvania has adopted**
- Opposes the agencies' revision of the passenger car and light truck emissions augural standards
- Agencies' "new" analysis is technically flawed
- Make **unrealistic, self-reinforcing assumptions** about many of the factors influencing vehicle cost, price, consumer preferences, environmental benefit, and safety that generate results to support a predetermined outcome

- **Opposes proposal to revoke the waiver;** agencies' rationale for this reversal in the Proposed Rule is not consistent with the criteria for a waiver denial
- Continues to face challenges in meeting and maintaining federal **national ambient air quality standards**
 - Proposed Rule would interfere with Pennsylvania's SIP planning requirements
- **60-day timeframe to review and comment is entirely inadequate;** raises the question as to whether the agencies' actions are motivated by factors other than the protection of public health, public welfare and public safety
- EPA failed – and continues to fail - to provide a reasoned explanation of how the facts in its July 2016 Draft Technical Assessment Report (TAR) or January 2017 Mid-Term Evaluation justify its reversal of position
- Agencies are selective on how they represent the potential effects of “rebound”
- Increasing role of natural gas-powered vehicles and, perhaps more significantly, company vehicle fleets in Pennsylvania and nationally, for meeting the current and augural standards has not been fully considered by the agencies

Modeling

- **New analysis appears to be “diluting” emissions impacts** across the nation, and thus reducing potentially significant local, state and regional level air quality impacts
 - Disagrees with the agencies' dismissal of these potential changes in downstream emissions
- Fails to consider all relevant model input parameters to estimate changes in vehicle safety; use of selective modeling inputs produces an incomplete picture and understanding of what may likely occur
- **Inadequate for the agencies' analysis to only focus on frontal crashes** while omitting near-frontal collisions, side-impact collisions, rear-end collisions, rollover accidents, impacts with stationary objects and accidents involving pedestrians
- **Many automakers have already made clear their plans to shift propulsion systems;** proposal fails to adequately consider the significant monetary investments that companies have already made
- Proposed Rule **does not fully consider the potential effects of global climate change;** volume of extreme weather events and other effects of climate change will drastically increase mitigation and recovery costs
- Agencies discount other factors (besides final costs) that can influence a purchasing decision
- Proposed Rule does not provide empirical evidence to substantiate the agencies' claims about vehicle cost

Waiver

- Agencies **do not provide sufficient explanation** on how the previously issued 2013 waiver of federal preemption now meets the statutory criteria for denial
- Proposal **undermines the principles of cooperative federalism** established between the states and federal government

- **Ignores EPA's own health and welfare endangerment finding** related to the contributions of GHGs to the environment

CAA authority

- EPA did not propose to make the requisite finding under Section 202(a)(2) that it is "necessary" to flat-line the standards for six years in order "to permit the development and application of the requisite technology."
- EPA **concedes technological development and application is not a limiting factor here**
- **Does not explain how six years of standards with zero incremental improvement are "necessary"** from a lead-time or cost-reducing perspective

North Carolina DEQ (45 pages)

Comment Letter

- Oppose the proposed rulemaking to relax the CAFE and CO2 standards
- Analysis underestimates the costs and public health impacts and inflates the benefits of the regulatory alternatives considered
- Climate change is already impacting our state
- Would also place North Carolina and other states at significant risk for exceeding the ozone and particulate matter (PM2.5) NAAQS

Detailed Comments

Message

From: Moran, Robin [moran.rob@epa.gov]
Sent: 12/12/2018 1:41:13 PM
To: Lieske, Christopher [lieske.christopher@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: RE: Mtg with Grundler on 12/19 at 1 pm re SAFE/California Waiver Comments

Hi David, I was out yesterday, so just catching up. I didn't know any background on that Grundler meeting on the waiver comments either. (note, I'll be out next Wed afternoon, so won't be able to participate).

The stakeholder comment summaries that the team pulled together (which Chris L. flagged yesterday) are a great resource, but just so you're aware, we haven't actually distilled these summaries into briefings yet for Chris G or Bill W. We have been going to Bill W. on narrow topics of comments, like analysis of the scrappage model/safety comments critiques on the analysis (which he has asked about), and next week on natural gas vehicle issues. So in terms of format, you should feel free to do whatever you think makes most sense for the waiver issues.

Hope that helps.

Best,
 Robin

From: Lieske, Christopher
Sent: Tuesday, December 11, 2018 9:12 AM
To: Dickinson, David <Dickinson.David@epa.gov>; Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.rob@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Moltzen, Michael <Moltzen.Michael@epa.gov>
Subject: RE: Mtg with Grundler on 12/19 at 1 pm re SAFE/California Waiver Comments

Hi David –

The comment summaries the team has pulled together are on the I drive at I:\Project\SAFE Vehicles Rule\Public Comments\Comment Summaries. Please let me know if you have any trouble accessing the I drive.

Chris

From: Dickinson, David
Sent: Tuesday, December 11, 2018 8:57 AM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.rob@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Moltzen, Michael <Moltzen.Michael@epa.gov>
Subject: Mtg with Grundler on 12/19 at 1 pm re SAFE/California Waiver Comments

Hi –

I received a scheduler yesterday for this internal meeting with Grundler.

I don't know anything about this other than it is scheduled. Have you been providing him with summaries on other topics (e.g. modeling, etc)?

Chris L had mentioned that there was a summary of some sort that is listing the commenters and what subject areas they have commented on – is that available? I'd like to make sure I am ready the primary comments on the California waiver matter.

It would also help to see the “format” that ASD has been using in terms of presenting summaries of comments to Chris G.

Thanks,
David D

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 12/11/2018 2:09:04 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Re: Mtg with Grundler on 12/19 at 1 pm re SAFE/California Waiver Comments

No need for you to do anything on this one yet. Will call you later and explain. Thx

On Dec 11, 2018, at 5:57 AM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Hi –

I received a scheduler yesterday for this internal meeting with Grundler.

I don't know anything about this other than it is scheduled. Have you been providing him with summaries on other topics (e.g. modeling, etc)?

Chris L had mentioned that there was a summary of some sort that is listing the commenters and what subject areas they have commented on – is that available? I'd like to make sure I am ready the primary comments on the California waiver matter.

It would also help to see the "format" that ASD has been using in terms of presenting summaries of comments to Chris G.

Thanks,
David D

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/16/2019 3:45:47 PM
To: Woods, Clint [woods.clint@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/16/2019 1:08:27 PM
To: Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: Fw: SAFE - final tweaks tonight for integration
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx

Good morning gentlemen-

See the attached. There was a flurry of activity this weekend so please see page 102 for instance. As always, please pass along edits and comments.

Thank you.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 10:25 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 2:18:10 AM
To: Dickinson, David [Dickinson.David@epa.gov]; Charmley, William [charmley.william@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Cook, Leila [cook.leila@epa.gov]
CC: Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

May be at pens down stage tomorrow so probably one last chance to edit if you want it

From: Orlin, David <Orlin.David@epa.gov>
Sent: Sunday, September 15, 2019 9:55 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

FYI—I am just getting back into town but it looks like another draft went to OIRA today?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 12:56 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE step one - clean and redline with bubbles

Attached is additional redline from the “clean” snapshot. Anyone who hasn’t reviewed yet should use this version rather than last night’s “clean.”

Morrison and I have been through the document and, once he inputs the redline that I’m attaching here, **we will have one unitary document that his staff will hopefully send to OIRA by mid-afternoon today.**

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:31 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>

Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>

Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline.

That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA's most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I'm only including bubbles explaining changes to NHTSA's text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 2/6/2019 4:03:58 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: Update regarding SAFE FRM interactions with DOT/NHTSA this week

Fyi, didn't see you on this one

From: Simon, Karl
Sent: Wednesday, February 06, 2019 9:23 AM
To: Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>
Subject: Re: Update regarding SAFE FRM interactions with DOT/NHTSA this week

I asked David D to sit in on the meeting. He knows where we left things re waiver issues so if there is any new direction would be useful to close the loop with him. From my perspective, i am not recommending any but I do believe OGC will make the push for OTAQ to be more involved in comment responses re waiver. Should listen today and we can take back and what is discussed.

On Feb 6, 2019, at 2:30 PM, Grundler, Christopher <grundler.christopher@epa.gov> wrote:

Got. I will give you a call before 10


Christopher Grundler, Director

Office of Transportation and Air Quality

U.S. Environmental Protection Agency

202.564.1682 (Washington DC)

734.214.4207 (Ann Arbor MI)

 (mobile)

www.epa.gov/otag

On Feb 6, 2019, at 8:00 AM, Charmley, William <charmley.william@epa.gov> wrote:

Chris,

I wanted to provide you with a status update on our interactions with the NHTSA/DOT team, doing back to December, and also what we understand is happening this week.

December 2018

- EPA had a meeting with NHTSA/DOT on
 - The one action item assigned to OTAQ was to send NHTSA a copy of the SAFE NPRM comment outline that the EPA contractor is using to create a databased of the comments. Mike did this on December 20.
 - We also received on December 20 a document from NHTSA, titled "Issue Outline for Analysis of Public Comments .."

January/February 2019

- Agenda for February 7 EPA/DOT meeting: Following our January 31 meeting with AA Wehrum, later that day Mike sent NHTSA a request for 2 agenda items for the February 7 EPA/DOT meeting:
 - NHTSA update on FRM timing
 - NHTSA feedback on what are the most significant technical issues for the FRM, and information regarding how NHTSA plans on addressing the issues
 - We have not yet heard from NHTSA on the overall agenda, or on our 2 suggested items
- Meeting today (Feb 6) regarding the SAFE NPRM Comments and Preparing for Final Rule
 - Justin Schwab and Jonathan Morrison (NHTSA General Counsel), have arranged a meeting for this afternoon to discuss the comments on the NPRM, and we believe organizational approaches to how to summarize and respond for the Final Rule
 - At some point yesterday, Justin decided that OAR and OTAQ should participate
 - The current list of invitees are:
 - Jonathan Morrison, NHTSA
 - Justin Schwab, David Orlin, Mark Kataoka, Gautam Srinivasan, EPA OGC
 - Clint Woods, David Harlow, EPA OAR
 - OTAQ

On this last topic, it would be helpful for me if you and I could talk this morning.

Thanks

Bill

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 2/6/2019 2:28:32 PM
To: Lieske, Christopher [lieske.christopher@epa.gov]
CC: Charmley, William [charmley.william@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]; Moran, Robin [moran.robin@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Subject: Re: NHTSA Communication: Follow-up on SAFE Comments Database

Makes sense to me. Thx

On Feb 6, 2019, at 2:15 PM, Lieske, Christopher <lieske.christopher@epa.gov> wrote:

Bill –

On your questions regarding N2O/CH4, the proposal proposes to eliminate the flexibilities for N2O/CH4 and requests comment on whether the standards should be adjusted. Consistent with the preamble, the proposed regulations end the flexibilities after MY2020 but retain the current N2O/CH4 standards.

Preamble p. 42988

In the interests of harmonizing with the CAFE program, EPA is proposing to exclude air conditioning refrigerants and leakage, and nitrous oxide and methane emissions for compliance with CO2 standards after model year 2020 but seeks comment on whether to retain these element, and reinsert A/C leakage offsets, and remain disharmonized with the CAFE program. EPA also seeks comment on whether to change existing methane and nitrous oxide standards that were finalized in the 2012 rule. Specifically, EPA seeks information from the public on whether those existing standards are appropriate, or whether they should be revised to be less stringent or more stringent based on any updated data.

Further discussion:

<image002.jpg>

From: Charmley, William
Sent: Wednesday, February 06, 2019 7:35 AM
To: Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: RE: NHTSA Communication: Follow-up on SAFE Comments Database

Dear all

Mike - thank you for forwarding on the document that NHTSA provided in December – the NHTSA draft “Issue Outline for Analysis of Public Comments”

I have a few observations, and also I added a few comments in the document.

One observation – the outline of the NHTSA document, while not identical, closely follows the outline for the SAFE NPRM preamble, which I copied below;

<image006.png>

This may mean that this document is also close to the outline for the preamble for the final rule, though we will learn that as we go along.

For today’s call, I think we should mostly be in a listening mode. I am working from home, and so is Chris Lieske, and perhaps others. I think we should be okay asking a few questions, but I wouldn’t go too deep at this point. My presumption is that overall DOT will be responsible for the vast majority of the final rule, as it was the case for the NPRM.

I also do see some potential tension regarding a few topics.

- Last week AA Wehrum told us that he continues to believe that technical engagement on the analysis for the NPRM is OTAQ’s #1 priority. I’m not sure if NHTSA intends to divide up work for the analysis and FRM write-up of the comments, but it seems like that work should come after our #1 priority
- Just as importantly, last week AA Wehrum told us there has been no decisions on the final rule policy/program. So, no decision on the waiver, no decision on the standards, no decision on the natural gas comments, no decision on A/C treatment, off-cycle treatment, etc. There is not much that can be done on responding to comments when we don’t know what the Acting Administrator’s decisions are

In the attached document, I have added a few comment fields, for internal to OTAQ discussion only, regarding what sections of the NHTSA document related to the work EPA did for the SAFE preamble, which could serve as a guide for us as we move forward with the topics EPA may be responsible for the final rule. Please take a look.

Thanks
Bill

From: Olechiw, Michael
Sent: Tuesday, February 05, 2019 4:46 PM
To: Charmley, William <charmley.william@epa.gov>
Cc: Moran, Robin <moran.robin@epa.gov>
Subject: NHTSA Communication: Follow-up on SAFE Comments Database

What we got back

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Sent: Thursday, December 20, 2018 1:06 PM

To: Jim Tamm <james.tamm@dot.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>

Subject: RE: Follow-up on SAFE Comments Database

Hi Robin and Michael –

It was nice to meet you yesterday. I'm looking forward to working with you over the final stretch of this rulemaking.

I've attached the comment outline, as Jim suggested.

Happy holidays!

Regards,

Ross Rutledge

From: Tamm, James (NHTSA)

Sent: Thursday, December 20, 2018 12:55 PM

To: Moran.Robin@epamail.epa.gov; Olechiw.Michael@epamail.epa.gov

Cc: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>

Subject: FW: Follow-up on SAFE Comments Database

Hi Robin and Mike,

It was also good to see you on the video, and I wish you and your families the best for the holidays.

Thanks for forwarding the outline of topics and the information that the contractor will reviewing comments in both the EPA and NHTSA dockets. Ross Rutledge will be forwarding the outline that we are using. I've looped him in on the email. His phone number is [REDACTED]

Jim

From: Moran, Robin [<mailto:moran.robin@epa.gov>]

Sent: Thursday, December 20, 2018 12:23 PM

To: Tamm, James (NHTSA) <james.tamm@dot.gov>

Cc: Olechiw, Michael <olechiw.michael@epa.gov>

Subject: Follow-up on SAFE Comments Database

Dear Jim,

It was nice to see you on the video yesterday. I wanted to follow-up on our discussion about the database of public comments. As we typically do for major rules, we have initiated a contract to pull excerpts of comments, organized by topic, into a database. Due to some contracting issues, that work has only just begun.

As you requested, I've attached the outline of topics around which the database will be organized, which focuses on program elements specific to the EPA GHG program.

On your question of whether the contractor is looking also at any unique comments that are in the NHTSA docket (but not in EPA's docket), the answer is yes -- we did build this task into the contractor's work assignment, though this task has not yet begun.

From yesterday's discussion, we understand that Russ should be our new point of contact for the SAFE rule. Would you mind passing along Russ's contact information so that we have it for future use?

Thanks Jim, and have a very happy holidays!

Best,
Robin

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/18/2019 4:06:36 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Charmley, William [charmley.william@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Moran, Robin [moran.robin@epa.gov]
Subject: FW: Revised SAFE Rule
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx; ATT00002.htm

I hesitate to say this is the last version because that was supposed to be last night's set of documents, but I do think this is the last one. Ex. 5 Deliberative Process (DP)

Ex. 6 Personal Privacy (PP) I believe you can now pull together the docket stuff per our discussion. Event/signature appears to be first thing tomorrow morning. Let me know if you have any questions. thanks

From: Woods, Clint <woods.clint@epa.gov>
Sent: Wednesday, September 18, 2019 11:42 AM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: Fwd: Revised SAFE Rule

Begin forwarded message:

From: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Date: September 18, 2019 at 11:36:37 AM EDT
To: "'Bolen, Brittany'" <bolen.brittany@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "schwab.justin@epa.gov" <schwab.justin@epa.gov>, "woods.clint@epa.gov" <woods.clint@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Subject: Revised SAFE Rule

Good morning,

Attached is the revised SAFE rule, in redline and clean, which makes: (1) minor changes to the 12866 section at OIRA's request; and (2) a few non-substantive changes that correct quotations and fill in a footnote. Jonathan discussed these changes a moment ago with Justin and Clint.

OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
 Tim

Timothy J. Mullins
 Senior Attorney
 Office of the General Counsel, Office of Regulation (C-50)
 U.S. Department of Transportation

Ex. 6 Personal Privacy (PP)

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/17/2019 11:40:50 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; SAFE Vehicles Rule Part 1 0917 REDLINE.docx

FYI and please see attached. This is now at OP (and with others, see below). Our understanding of next steps is set forth below. Thanks to all for their amazing individual work and teamwork on this.

From: Schwab, Justin
Sent: Tuesday, September 17, 2019 7:31 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Nickerson, William <Nickerson.William@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/17/2019 3:51:21 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
CC: Harlow, David [harlow.david@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: for DOJ SAFE call
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx; SAFE Part 1 Redline from 8.30 to 9.15 with redline for move.docx

Justin- Are these the documents you think DOJ will be working from on the call?

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, September 16, 2019 9:21 AM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: OIRA TRANSMISSION FW: Combined SAFE Rule Documents

See below & attached – the 3 versions that I circulated internally last night have now gone from DOT to OIRA.

From: Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Sent: Monday, September 16, 2019 9:07 AM
To: 'Theroux, Richard P.' <[REDACTED] Ex. 6 Personal Privacy (PP)>; Kymn, Christine J. EOP/OMB <[REDACTED] Ex. 6 Personal Privacy (PP)>; Hageman, Sharon E. EOP/OMB <[REDACTED] Ex. 6 Personal Privacy (PP)>; Oreska, Matthew P. EOP/OMB <[REDACTED] Ex. 6 Personal Privacy (PP)>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: Combined SAFE Rule Documents

Good morning,

We regret any confusion the prior versions from last week may have caused interagency reviewers. We had sent them as early as possible because we knew that there was interest in seeing the revised substantive discussions, but understand that led to questions about which discussion in which document was current.

We have attached several versions that we hope will make clear where the current document is. The primary intent of these documents is to show the changes to the current draft since the last document sent to OMB on August 30. There are two wrinkles here: first, the decision to move the EPCA section first makes a pure redline not very useful, as all you really see is the moved text, not actual changes to the text; and second, the agencies have made some changes to the combined document over the weekend.

To that end, we have attached 4 different versions, which we think will be helpful for reviewers with different levels of familiarity with the document:

- A purely "CLEAN" version of the latest draft

- A pure redline between the 8.30 draft and the latest 9.15 draft ("SAFE Part 1 Redline from 8.30 to 9.15 with redline for move"), that shows the reorganization and is thus filled with "green" text
- A modified redline ("REDLINED FROM 830") that accepts the move but shows all other changes (which we think is the best version of the document, though we note it was done manually, so may not be perfect)
- A redline ("REDLINE FROM COMBINED 912 913") that only shows changes between a version that combined the drafts sent Thursday and Friday with the 9.15 draft (which will show you all the extent of the changes over the weekend).

We are happy to answer any questions at 10 this morning.

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation
202-366-9038

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/17/2019 3:14:37 PM
To: Harlow, David [harlow.david@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: KS Comments on SAFE preamble
Attachments: SAFE STEP ONE CLEAN DRAFT 09042019 11 AM -KS Comments.docx; ATT00001.htm

David H:

Thanks for the offer of taking a look at my comments from Sunday. David pulled this document off the share point and think my comments are attributed. I tried to take a light touch on the document recognizing we are at the end stage on this one. Given the changes on Sunday some of these may be also already addressed. If you don't think these rise to the level of addressing now I am ok. And if timing doesn't allow a review, no worries.

Karl

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 8:49:47 PM
To: Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Correct – we all agreed to not move forward on including unless we heard there was a so-far unknown reason to consider doing so

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 4:19 PM
To: Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

Regards,
 David D

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, September 16, 2019 4:10 PM
To: Dickinson, David <Dickinson.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

(leaving Clint off)

I thought the outcome of the 1:30 meeting was general agreement that we didn't think this was a good use of resources? Were you on that call, Winnie? I did leave before the entire discussion was done so maybe I missed something, but frankly this list just confirms that for me.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 2:52 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Just based on some recollection – not exhaustive research or verification

From: Okoye, Winifred <Okoye.Winifred@epa.gov>

Sent: Monday, September 16, 2019 2:09 PM

To: Woods, Clint <woods.clint@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: Re: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Monday, September 16, 2019 11:45 AM

To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/16/2019 8:44:19 PM
To: Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 4:19 PM
To: Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

Regards,
 David D

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, September 16, 2019 4:10 PM
To: Dickinson, David <Dickinson.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

(leaving Clint off)

I thought the outcome of the 1:30 meeting was general agreement that we didn't think this was a good use of resources? Were you on that call, Winnie? I did leave before the entire discussion was done so maybe I missed something, but frankly this list just confirms that for me.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 2:52 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Just based on some recollection – not exhaustive research or verification

From: Okoye, Winifred <Okoye.Winifred@epa.gov>

Sent: Monday, September 16, 2019 2:09 PM

To: Woods, Clint <woods.clint@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: Re: SAFE step one: draft for this afternoon's discussion at 1:30

David D- Perhaps you can add to this procedural history?:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Monday, September 16, 2019 11:45 AM

To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: SAFE step one: draft for this afternoon's discussion at 1:30

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If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 5:34:32 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, September 16, 2019 1:34 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE step one: draft for this afternoon's discussion at 1:30

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, September 16, 2019 11:46 AM
To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 5:11:22 PM
To: Cook, Leila [cook.leila@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE - final tweaks tonight for integration

Begin forwarded message:

From: "Dickinson, David" <Dickinson.David@epa.gov>
Date: September 16, 2019 at 1:01:06 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

Karl –

Also, I think Lee Cook would be very interest in this development in terms of the public health and welfare angle.

David

From: Dickinson, David
Sent: Monday, September 16, 2019 1:00 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

Karl –

Ex. 5 Attorney Work Product (AWP)

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Monday, September 16, 2019 9:08 AM
To: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE - final tweaks tonight for integration

Good morning gentlemen-

See the attached. There was a flurry of activity this weekend so please see page 102 for instance. As always, please pass along edits and comments.
Thank you.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 10:25 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 4:37:42 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Cook, Leila [cook.leila@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; ATT00001.htm

Sarah,

The waiver piece is very fluid as you will see from the email chain below. I am annoyed but ok with David and I joining the call at 1:30 but since we are way behind the conversations taking place we will be mostly in listening mode as it appears they may be changing the theory of the argument re: prong 2. Depending on how this is being presented we may or may not be able to provide assistance but I can't tell you that yet given the uncertainty in the process this last couple of days.

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: September 16, 2019 at 12:17:50 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30

David Orlin
 (202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 16, 2019 at 11:45:47 AM EDT
To: "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

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If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/13/2019 2:48:04 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fw: Redline reflecting changes to NHTSA's piece
Attachments: 091219.docx

I think this is NHTSA's latest draft. Perhaps they have addressed your comments?

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, September 13, 2019 10:08 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Redline reflecting changes to NHTSA's piece

Please find attached. I have not yet reviewed. I have circulated to Brittany B. and OAR IO and asked whether someone, ideally neither Harlow nor ARLO, can merge this into the sharepoint version. If no one else is able to do so, then ARLO/I will have to do so. For now assume that it won't be us, I'll let you know if that changes.

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/13/2019 6:14:35 AM
To: Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]
Subject: Re: OTAQ input to SAFE sharepoint on EPCA/CA Waiver

Thank you David D. We have reviewed and incorporated some of the edits. We would like to discuss others to get a better sense of what is being said. Attempts to reach you yesterday were unsuccessful. I will call you sometime today to discuss further. In the meantime, we would like OTAQ reaction on a couple of edits in the EPCA preemption section as well as section 177.

Again thank you for all your help here.

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Wednesday, September 11, 2019 11:52 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>
Subject: OTAQ input to SAFE sharepoint on EPCA/CA Waiver

OGC colleagues –

I wanted to let you know that I was asked by Winnie to go ahead and insert the comments/edits in the EPCA preemption piece (NHTSA's piece) that Karl provided to you last week. That has been done. For your convenience, I've also tried to insert comments/edits on the CA waiver piece as well as the EOs at the end of the document – admittedly the document is evolving and there may have been a few spots where I couldn't find the place where our edit would have been made. All comments/edits are in redline.

Let me know if you have any questions and also when additional significant changes are being made.

Thank you,
David

Message

From: Cook, Leila [cook.leila@epa.gov]
Sent: 9/5/2019 9:43:17 PM
To: Simon, Karl [Simon.Karl@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: RE: SAFE Preemption Waiver 8.30.2019 ks edits

Karl and David, I scanned our comments and wanted to note I think they are very well crafted for the job at hand.

Lee

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, September 05, 2019 5:17 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Cc: Dickinson, David <Dickinson.David@epa.gov>
Subject: SAFE Preemption Waiver 8.30.2019 ks edits

Per discussion, here is David and I's review of the full document (waiver and EPCA preemption). There are a handful of comments and a smaller number of edits included here, so it should be a quick read to see them. Note that in response to add more context for the second prong issue, we took a light touch consistent with the level of detail of arguments throughout the document. I will send this along to OGC later tonight with a note that we are still going through things as an office so there might be an change or two, but wanted to get them started. I will also note that in the hours between when we got this and started mark up, there is one or two new drafts that reorder and add language, so we will have to work with OGC staff to line up comments with the continuously changing draft. thanks

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 8/30/2019 9:35:40 PM
To: Dickinson, David [Dickinson.David@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Charmley, William [charmley.william@epa.gov]
Subject: Re: Update of SAFE/CA Waiver

Thank you David.

On Aug 30, 2019, at 4:43 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Sounds good, I just sent Winnie comments on the SIP issues and indicated we'd have more comment on Tuesday.
 David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Friday, August 30, 2019 4:27 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Charmley, William <charmley.william@epa.gov>
Subject: Re: Update of SAFE/CA Waiver

Thanks David. I think sharing the sip observation and any incorrect cites that you flagged is ok to pass on. Given that none of us have read the current draft in any detail, it seems difficult to expect comments in such a short period. I think Tuesday morning for any additional comments that may come so that at least a few people can review the document. Give me a call if any other feedback or discussion is needed.

On Aug 30, 2019, at 4:08 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

All -

A few quick updates since our meeting this morning:

1.

Ex. 5 Attorney Work Product (AWP)
2. The timing of a final waiver decision remains unclear, however Justin just indicated to Winnie that he'd like as much OTAQ feedback TODAY as possible. There is no indication whether that includes feedback on NHTSA's separate piece on EPCA preemption.
3. At this point I plan to email Winnie today with general indication that the assertions regarding the inclusion of ZEV and GHG not being included in any State SIPs is incorrect. Otherwise the request for feedback today can't be met given the holiday weekend, and we plan to provide feedback early next week. Is that ok?

As discussed this morning, there is a new draft of the waiver piece – attached. It remains a moving target – especially since the 3rd waiver prong/technological feasibility

will not be included (I assume there will be some type of place holder of reference that it will come later in the federal rule).

As noted in #3 above, there are a few places in the draft re the relationship between ZEV/GHG and SIPs – see generally page 21 for a discussion of this, and pages 66-67 that references SIPs in the context of the new section 177 interpretation.

Again, the discussion of the 3rd waiver prong/technological feasibility may be deferred but you can find it in the draft at pages 53-65. The discussion of the CARB MOU is at pages 55 and 60-62.

Also important, footnotes 43 and 51 set out an interpretation of the 2nd waiver prong that was not in the NPRM. Rather than isolating the GHG standards and looking at their particular need in California, this draft stretches the new interpretation of the second waiver prong so that EPA will now be required, to some degree, to look at the particular need of any given criteria pollutant standard and possibly inject federal policy preferences.

There remain placeholders for a possible EPCA preemption discussion in this waiver piece, and a placeholder for climate impacts (2nd waiver prong) in California and possibly why the impacts are not “compelling and extraordinary.”

And a good weekend to all,
David

<SAFE comparewno V2 8-29-19.docx>

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 8/6/2019 9:23:56 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: SAFE waiver module for upload
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx; ATT00001.htm

FYI

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Tuesday, August 6, 2019 5:22 PM
To: Charmley, William <charmley.william@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Cook, Leila <cook.leila@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Fwd: SAFE waiver module for upload

FYI in case you don't already have this was what was uploaded last Friday from EPA.

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: August 2, 2019 at 2:10:02 PM EDT
To: "Nickerson, William" <Nickerson.William@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>
Cc: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>
Subject: SAFE waiver module for upload

Bill,

Please find attached.

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 8/15/2019 8:24:40 PM
To: Burch, Julia [Burch.Julia@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]; Sargeant, Kathryn [sargeant.kathryn@epa.gov]
Subject: RE: FACT SHEET Timeline Draft OCIR Input for SAFE Letter/Statement June 20-August 15 2019
Attachments: AX-19-000-7364_incoming_EDF to Administrator re failure to record meetings.pdf

I think they should capture this one from EDF to Administrator claiming that EPA failed to record meetings w automakers

From: Burch, Julia <Burch.Julia@epa.gov>
Sent: Thursday, August 15, 2019 4:14 PM
To: Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Sargeant, Kathryn <sargeant.kathryn@epa.gov>
Subject: FW: FACT SHEET Timeline Draft OCIR Input for SAFE Letter/Statement June 20-August 15 2019

This is the second piece that the Administrator requested, that OCIR took the lead on. Please take a quick look and let me know if anything looks out of place.

Thanks!

From: Cyran, Carissa <Cyran.Carissa@epa.gov>
Sent: Thursday, August 15, 2019 3:54 PM
To: Burch, Julia <Burch.Julia@epa.gov>
Subject: FACT SHEET Timeline Draft OCIR Input for SAFE Letter/Statement June 20-August 15 2019

Hi Julia,

Attached are letters and a summary document that OCIR pulled together in response to the Administrator's request for a chronological list and summary of all the SAFE-related correspondence since the Wehrum hearing. If staff have any edits or see any major issues, let me know and I will work with OCIR to address them. If none, once I have the new fact sheet from you all I will batch it together for OAR IO review.

Thank you!

Carissa

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 8/1/2019 2:41:14 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: For OAR Leadership: Mark-up of NHTSA SAFE Final Rule Response to Comments Outline: Issues EPA will take the lead on
Attachments: Comment Categories 2022-20265 CAFE 190729 to EPA, OTAQ comments Aug 1.docx

FYI – no real surprises here

From: Charmley, William
Sent: Thursday, August 1, 2019 10:37 AM
To: OAR Briefings <OAR_Briefings@epa.gov>
Cc: OTAQ Materials <OTAQMaterials@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: For OAR Leadership: Mark-up of NHTSA SAFE Final Rule Response to Comments Outline: Issues EPA will take the lead on

Dear Anne and Clint,

On Tuesday of this week Clint provided to OTAQ the SAFE Final Rule Response to Comments Outline from NHTSA, and both of you asked for OTAQ to look at the document and flag all of the comment topic areas that EPA will be taking the lead on for the Final Rule.

In the attached you will see our recommendations for each of the topics that OTAQ & ARLO believe that EPA should have the lead on for the Final Rule.

Please let us know if you have any questions or comments on our recommendations.

Thanks
Bill

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 7/29/2019 1:29:42 AM
To: Orlin, David [Orlin.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: Cal agreement

Will send you the link to the term sheet.

Ex. 5 Attorney Client (AC)**Ex. 5 Attorney Client (AC)**

From: Orlin, David
Sent: Friday, July 26, 2019 3:28 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: Cal agreement

Hello OTAQ friends,

Just when you think it's safe to start the weekend, we get some new requests/direction/timeline from Justin (via Elliott, below).

The only written "agreement" between CA and the autos I've seen is the one page posted here

<https://ww2.arb.ca.gov/sites/default/files/2019-07/Auto%20Terms%20Signed.pdf>

Assuming that's all we have, if you have any guesses you'd like to share on questions 2-5 before COB Monday you are free to share them.

However the main reason I wanted to check in is the last paragraph—

By next Friday we need to be ready to transmit some portion of draft final text (potential) to OMB. Justin thinks the draft revocation to the extent that that it does not rely on facts. He thinks restatement of our legal theory with and response to some of the major legal comments.

I wanted to see if you would be ready to share a writeup on prong 2 sometime next week (at least to the extent it is a legal interpretation and does not rely on particular facts)

On the one hand, it seems a little crazy to suddenly set deadlines like this, but on the other hand if we are primarily restating prior statements from 2007 and the proposal, maybe it's feasible.

Let me know, and if you don't think you'll have something shareable (or you think prong 2 is primarily fact-dependent) we'll consider next steps.

Thanks, and have a nice weekend,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Zenick, Elliott

Sent: Friday, July 26, 2019 2:54 PM

To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: Cal agreement

From Justin--

By COB Monday, we need a paper with the following

- (1) what is the CA agreement with the car makers (press release and actual agreement)—we need the document;
- (2) What are the next steps CA and automakers

Ex. 5 Attorney Client (AC)

By next Friday we need to be ready to transmit some portion of draft final text (potential) to OMB. Justin thinks the draft revocation to the extent that that it does not rely on facts. He thinks restatement of our legal theory with and response to some of the major legal comments.

Assistant General Counsel – ARLO
(202)564-1822

Appointment

From: Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)]
Sent: 9/14/2019 2:58:29 AM
To: Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Harlow, David [harlow.david@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Woods, Clint [woods.Clint@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]; Nickerson, William [Nickerson.William@epa.gov]; Miller, Wendy (ENRD) [Wendy.Miller@usdoj.gov]; justin.smith@usdoj.gov
Subject: FW: SAFE - Holding Time for Discussion on Comments
Location: [Ex. 6 Personal Privacy (PP)]
Start: 9/17/2019 8:00:00 PM
End: 9/17/2019 9:00:00 PM
Show Time As: Busy

Please forward to appropriate OTAQ/OAP.

-----Original Appointment-----

From: Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)]
Sent: Friday, September 13, 2019 10:59 PM
To: Hageman, Sharon E. EOP/OMB; Srinivasan, Gautam; Harlow, David; Schwab, Justin; Bolen, Brittany; Woods, Clint; Idsal, Anne; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: FW: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: [Ex. 6 Personal Privacy (PP)]

From: Hageman, Sharon E. EOP/OMB
Sent: Friday, September 13, 2019 11:37:03 PM UTC
To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 8:00 PM-9:00 PM.
Where: [Ex. 6 Personal Privacy (PP)]

Hello all,
 Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.
 Thanks,
 Sharon

Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 9/17/2019 10:59:50 PM
To: Idsal, Anne [idsal.anne@epa.gov]; Harlow, David [harlow.david@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]
CC: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Fwd: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL RE: final for true-up
Attachments: Edits to FINAL EPA MASTER 09172016 PM SAFE STEP ONE.docx; ATT00001.htm

Begin forwarded message:

From: "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Date: September 17, 2019 at 6:54:03 PM EDT
To: "Schwab, Justin" <Schwab.Justin@epa.gov>
Cc: "Woods, Clint" <woods.clint@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL RE: final for true-up

From: Schwab, Justin [mailto:Schwab.Justin@epa.gov]
Sent: Tuesday, September 17, 2019 4:43 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Cc: Woods, Clint <woods.clint@epa.gov>
Subject: final for true-up

Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 9/13/2019 7:33:55 PM
To: Nickerson, William [Nickerson.William@epa.gov]
CC: Bolen, Brittany [bolen.brittany@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Harlow, David [harlow.david@epa.gov]
Subject: SAFE Draft

Bill,

I hope all is well! Just wanted to flag that we are hoping to send a clean draft of SAFE waiver sections for OIRA before 5:00 today. I believe NHTSA provided their sections via email to Rich Theroux late yesterday, and we were hoping to do something similar. If you are available to transmit, we will send you over a comment-less copy at 4:45.

Thanks!

Clint

Message

Sent: 9/23/2019 9:25:46 PM
To: Block, Molly [block.molly@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Woods, Clint [woods.Clint@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]
CC: Schiermeyer, Corry [schiermeyer.corry@epa.gov]; Woods, Andrea [Woods.Andrea@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]
Subject: RE: FOR REVIEW: Inquiry regarding Wheeler comments

From: Block, Molly <block.molly@epa.gov>
Sent: Monday, September 23, 2019 5:23 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Woods, Andrea <Woods.Andrea@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Subject: FOR REVIEW: Inquiry regarding Wheeler comments

Can we recycle what we sent the AP? Or do we need to address this a different way? Thanks!

Ex. 5 Deliberative Process (DP)

From: Maxine Joselow <mjoselow@eenews.net>
Sent: Monday, September 23, 2019 4:23 PM
To: Abboud, Michael <abboud.michael@epa.gov>; Block, Molly <block.molly@epa.gov>
Cc: Press <Press@epa.gov>
Subject: Inquiry regarding Wheeler comments

Hello,

I'm currently writing a story about the following remarks by EPA Administrator Andrew Wheeler last week at the National Automobile Dealers Association:

"First, even the most stringent vehicle standards imaginable will have only a minimal impact on global temperatures. According to the Obama EPA's 2012 analysis, even a much more stringent version of their rule than the one that they eventually finalized would have only lowered global temperatures by two-one hundredths of a degree Celsius by 2100.

So it's important to put things in context. We're talking about changes in the hundredths of a degree Celsius, in 2100, under a more aggressive scenario than what the previous administration actually finalized."

I have heard criticism from several sources that while Wheeler's remarks were factually accurate, their framing was misleading, as any single action will look inconsequential in the context of global climate change. A better framing would have been in terms of emissions reductions or gains, rather than global temperature change, according to these sources. Does EPA have a response to this criticism? Please let me know. My deadline is COB on Tuesday, Sept. 24.

Thanks,
Maxine

--

Maxine Joselow

E&E News reporter

202-737-4369 (o)

Ex. 6 Personal Privacy (PP) (C)

Ex. 6 Personal Privacy (PP)

E&E NEWS

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Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM

Message

From: Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]
Sent: 9/18/2019 3:36:37 PM
To: Bolen, Brittany [bolen.brittany@epa.gov]; Nickerson, William [Nickerson.William@epa.gov]
CC: Schwab, Justin [Schwab.Justin@epa.gov]; Woods, Clint [woods.clint@epa.gov]; Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: Revised SAFE Rule
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx

Good morning,

Attached is the revised SAFE rule, in redline and clean, which makes: (1) minor changes to the 12866 section at OIRA's request; and (2) a few non-substantive changes that correct quotations and fill in a footnote. Jonathan discussed these changes a moment ago with Justin and Clint.

OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation

Ex. 6 Personal Privacy (PP)

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/5/2019 5:49:45 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)
Attachments: SAFE Preemption Waiver 8.30.2019_redline comments.docx

Additional comments. On a quick skim, I did not see anything on the EPA piece. There is a call tomorrow on these additional comments, but if there is nothing for us in the attached, maybe we'll be able to take a pass.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (C)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 1:38 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB <Ex. 6 Personal Privacy (PP)>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
 Office of Information and Regulatory Affairs
 Office of Management and Budget

Ex. 6 Personal Privacy (PP)

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2019 11:44:16 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: Fwd: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0917 REDLINE.docx; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 17, 2019 at 7:31:02 PM EDT
To: "Idsal, Anne" <idsal.anne@epa.gov>, "Woods, Clint" <woods.Clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Abboud, Michael" <abboud.michael@epa.gov>
Cc: "Nickerson, William" <Nickerson.William@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>, "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 4:56:11 PM
To: 'Gautam Srinivasan (Srinivasan.Gautam@epa.gov)' [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE step one - clean and redline with bubbles
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Attached is additional redline from the “clean” snapshot. Anyone who hasn’t reviewed yet should use this version rather than last night’s “clean.”

Morrison and I have been through the document and, once he inputs the redline that I’m attaching here, **we will have one unitary document that his staff will hopefully send to OIRA by mid-afternoon today.**

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:31 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA’s most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I’m only including bubbles explaining changes to NHTSA’s text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 1:30:46 AM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; SAFE STEP ONE SNAPSHOT INTERNAL REDLINE BUBBLES 09142019 PM.docx

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

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Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 1:56:34 AM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; SAFE STEP ONE SNAPSHOT INTERNAL REDLINE BUBBLES 09142019 PM.docx

Here's an earlier email—suggesting all edits be flagged (why they didn't post a clean copy, or whether people are doing that, is beyond me).

We are hearing pens down could be tomorrow...

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Saturday, September 14, 2019 9:31 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I'm sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA's most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I'm only including bubbles explaining changes to NHTSA's text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Sent: 9/14/2019 12:27:40 AM
To: Charmley, William [charmley.william@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Fwd: Latest draft of SAFE FRM
Attachments: SAFE STEP ONE CLEAN DRAFT .docx; ATT00001.htm

Begin forwarded message:

From: "Woods, Clint" <woods.clint@epa.gov>
Date: September 13, 2019 at 5:52:42 PM EDT
To: "Campbell, Ann" <Campbell.Ann@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Burch, Julia" <Burch.Julia@epa.gov>
Subject: Fwd: Latest draft of SAFE FRM

Begin forwarded message:

From: "Woods, Clint" <woods.clint@epa.gov>
Date: September 13, 2019 at 5:08:38 PM EDT
To: "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "Schwab, Justin" <Schwab.Justin@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>, "Harlow, David" <harlow.david@epa.gov>
Subject: Fwd: Latest draft of SAFE FRM

Bill,

Thanks so much for the help. Attached draft version for Rich contains updates to EPA's waiver sections, with the most recent non-structural line edits redlined. It does NOT contain recently-shared redline edits to NHTSA's sections.

Message

Sent: 9/5/2019 6:17:24 PM
To: Nickerson, William [Nickerson.William@epa.gov]
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Hi Bill. We're not seeing any comments on the EPA piece. In addition, there is an argument tomorrow morning in the DC Circuit on a related case (the challenge to the April 2018 mid term evaluation). Is it possible to ask whether EPA participation is needed tomorrow? If that's a faux pas, then I think we'd ask for the call to be rescheduled.

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(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (c)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 1:38 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB <[Ex. 6 Personal Privacy (PP)]>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
Office of Information and Regulatory Affairs
Office of Management and Budget

Ex. 6 Personal Privacy (PP)

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 8/9/2019 3:19:50 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE call
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Friday, August 09, 2019 11:14 AM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: RE: SAFE call

Bill- Do you have an electronic copy of what was uploaded with OMB?

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(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (c)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Tuesday, August 6, 2019 1:47 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE call

Gautam,

I will forward the meeting invitation to the people named below.

I understand that policy level officials from the EOP, DOT, and/or DOJ might also be on the call "for awareness" so would you also please forward to any policy level officials in OGC as appropriate. I will give Brittany the option of attending.

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, August 06, 2019 10:56 AM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: FW: SAFE call

Hello there, Bill. Hope you are doing well. For the Friday call with DOJ re SAFE, please invite Winnie Okoye, David Orlin, Mark Kataoka, and me. Thanks much.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (c)

From: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Sent: Tuesday, August 6, 2019 10:40 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: FW: SAFE call

Gautam, can you provide the list of the OGC participants? Thanks

From: Bolen, Brittany <bolen.brittany@epa.gov>
Sent: Tuesday, August 6, 2019 10:38 AM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: SAFE call

Matt,
OIRA contacted Bill Nickerson on my team to set up a DOJ call this Friday at 1pm on the document we uploaded last Friday. Who from your team should be included? Justin is out.
Happy to discuss at the 5pm today.
Thanks,
Brittany

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 9/5/2019 5:38:12 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)
Attachments: SAFE Preemption Waiver 8.30.2019_redline comments.docx

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB [Ex. 6 Personal Privacy (PP)]<[REDACTED]@v>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
Office of Information and Regulatory Affairs
Office of Management and Budget

[Ex. 6 Personal Privacy (PP)]

Message

From: Srinivasan, Gautam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D69332838210416BA51779B19025F832-GSRINIVA]
Sent: 9/5/2019 8:19:35 PM
To: Nickerson, William [Nickerson.William@epa.gov]
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Ok. We will figure something out.

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(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (C)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 2:43 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Apparently there are additional comments from White House counsel, and that is the gist of the call tomorrow.

Ex. 5 Deliberative Process (DP)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, September 05, 2019 2:23 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Hi Bill. We're not seeing any comments on the EPA piece. In addition, there is an argument tomorrow morning in the DC Circuit on a related case (the challenge to the April 2018 mid term evaluation). Is it possible to ask whether EPA participation is needed tomorrow? If that's a faux pas, then I think we'd ask for the call to be rescheduled.

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(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (C)

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Sent: Thursday, September 5, 2019 1:38 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

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Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

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Thank you,

Matthew

Matthew Oreska, Ph.D.
Office of Information and Regulatory Affairs
Office of Management and Budget

Ex. 6 Personal Privacy (PP)